

# **Exhibit D**

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October 6, 2005

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Mr. Scott D. Gattey, Esq.  
Director, Legal Affairs  
Siebel Systems, Inc.  
2207 Bridgepointe Parkway  
San Mateo, CA 94404

Via Fed Ex Priority Overnight  
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Ms. Alexa King, Esq.  
Legal Affairs  
Siebel Systems, Inc.  
2207 Bridgepointe Parkway  
San Mateo, CA 94404

Via Fed Ex Priority Overnight  
Tracking #790179042754

**Re: Response to Siebel Systems' letter to Rimini Street dated September 26, 2005**

Dear Ms. King and Mr. Gattey:

Snell & Wilmer L.L.P. represents Rimini Street, Inc., as lead counsel for any matters involving Siebel Systems, Inc.

We have received Mr. Gattey's September 26, 2005 letter regarding Rimini Street's announced intention to offer alternative software support services to Siebel Systems software licensees. Mr. Gattey's letter alleges that Rimini Street and its President & CEO, Seth A. Ravin, recently made a variety of false and/or misleading statements in September 2005 press releases, media interviews, and on the Rimini Street web site at [www.riministreet.com](http://www.riministreet.com).

These allegations are simply unfounded. Having investigated the facts within Rimini Street and with Mr. Ravin, as well as having reviewed additional information from Siebel Systems and third-parties, we conclude that neither Rimini Street nor any of its representatives have made any false or misleading statements, whether relating to Rimini Street proposed service offerings or Siebel Systems software licensing, customers, or employees.

We respond below to each of Siebel Systems' allegations, in the same order as presented in Mr. Gattey's letter.

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Oracle USA, Inc. v. Rimini  
Street, Inc.  
10cv106-LRH-PAL  
**DTX 0384**





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**I. Rimini Street May Lawfully Access Siebel Systems' Software for the Purpose of Providing Maintenance or Support Services for Siebel Systems Customers**

Rimini Street respects the intellectual property rights of software providers. Rimini Street intends to achieve quality service and customer satisfaction by providing independent consulting services to its clients to the extent permitted by law, and in accordance with the terms of any relevant software license agreement in effect with each Rimini Street client.

As is customary amongst the manufacturers of complex business software, Siebel Systems provides in its Software License Agreement that third party independent consultants may have access to Siebel Systems' software programs in connection with the internal business operations of Siebel Systems software licensees. (See § 1.12, Definition of "User"). While Section 9.1 of the Siebel Systems Software License Agreement states that customers may not provide competitors of Siebel Systems with access to Siebel Systems Confidential Information, we believe the widely accepted and understood meaning of "competitor" as used for the purposes of Section 9.1 refers to software manufacturers who are in the business of developing and selling competing software products (such as, for example, Salesforce.com, Onyx, SAP AG, etc.). Therefore, the limitations of Section 9.1 are of little consequence to Rimini Street and other independent consultants that offer only consulting services to Siebel Systems software licensees. Rimini Street's proposed maintenance and support consulting services for Siebel Systems licensees require the same software program access as other independent consulting services procured by Siebel Systems licensees on a regular basis—services that include, but are not limited to, installation, administration, implementation, remediation, customization, configuration, migration, and support of the software.

As an independent service consultant, Rimini Street is not a "Siebel competitor" as Mr. Gattey asserts in his letter. On the contrary, Siebel Systems' own programs, public documents, and educational offerings are evidence that Siebel Systems does not regard independent consultants as "Siebel competitors" for the purpose of limiting access to Siebel Systems software as contemplated by Section 9.1 of the Software License Agreement. For example, Siebel Systems encourages, supports, and aids the development and maintenance of a trained and knowledgeable independent consultant network. Siebel Systems does so through, among other things, offering formal, extensive Siebel Systems training and an optional Siebel Certified Consultant program to independent consultants who plan to provide or are currently providing services to Siebel Systems software licensees. It would be unreasonable for Siebel Systems to offer such opportunities to independent consultants, only to then forbid its licensees to provide independent consultants access to Siebel Systems software programs.





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Further demonstrating that Siebel Systems does not regard independent consultants as “Siebel competitors” for the purpose of limiting access to Siebel Systems software as contemplated by Section 9.1 of the Software License Agreement is the fact that Siebel Systems has established and maintains alliance partnerships with independent consulting organizations, many of which offer consulting services similar to those offered by Siebel Systems to its customers. In fact, Siebel Systems encourages and recommends—*but does not require*—that independent consultants providing services to Siebel Systems licensees obtain formal training from Siebel Systems to ensure that they are equipped with the latest information about Siebel Systems products. If independent consultants choose to take advantage of such training opportunities, they need only complete an online student profile and execute what Siebel Systems calls an “eBusiness Non Disclosure Agreement,” the terms of which in no way prohibit or restrict competition between the independent consultant and Siebel Systems. If independent consultants wish to become “Certified Siebel Consultants,” they need only successfully complete the requisite Siebel Systems training classes, pass a certification test, and execute a Siebel Certified Consultant Agreement. This agreement in no way prohibits or restricts competition between the independent consultant and Siebel Systems. Indeed, it would be illogical—and potentially unlawful—if it did.

In sum, we believe the facts are clear: (a) Rimini Street is an independent consultant that will be providing services to Siebel Systems licensees; (b) Section 1.12 of the Siebel Systems Software License Agreement provides for Siebel licensees to provide access to Siebel Systems programs to third party independent consultants; (c) Siebel Systems trains and promotes third party independent consultants providing services to Siebel Systems licensees; and (d) the meaning of the term “competitor” as contemplated by Section 9.1 would not include independent consultants providing services to Siebel Systems licensees, but rather reasonably encompasses software manufacturers that might gain information that could be used advantageously in the manufacturing of software products in direct competition with Siebel Systems products.

## **II. Siebel Systems’ Customers Need to Be Concerned That Software Maintenance Will Be Discontinued.**

Mr. Gattey alleges in his letter that

to the extent that Rimini Street is suggesting that Siebel Systems’ customers need to be concerned about whether maintenance and support for Siebel Systems’ software will continue to be available, such a suggestion is disingenuous...Siebel Systems demands that Rimini Street cease and desist from making any statement suggesting that Seibel Systems’ customers need to be concerned that Siebel Systems and/or Oracle intends to discontinue providing support and maintenance for Seibel Systems software...





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These allegations of false and/or misleading statements are without merit. Mr. Gattey's statements about the publicly available information regarding the future availability of support are inaccurate, and his conclusions are not supported by the publicly available statements from Oracle, by stated general technical direction from Oracle, or by Oracle's publicly shared new support plan.

First, Mr. Ravin merely expressed his professional opinion of the risks and hazards associated with Oracle's proposed acquisition of Siebel Systems. Mr. Ravin is a twenty-year veteran of the software industry and a well-known, credible specialist in enterprise software. Industry analysts, financial analysts, and the media frequently seek Mr. Ravin's opinions regarding the software marketplace. We are happy to provide examples of Mr. Ravin's recent quotes and media appearances if Siebel Systems so desires.

Second, while Mr. Gattey correctly states in his letter that Oracle has publicly announced that "customers' investments in Siebel Systems' applications will be supported and protected as the centerpiece of Oracle's Fusion CRM Strategy," he omitted the important fact that Oracle has publicly stated that it will be Siebel's "features and functions" that will become the centerpiece of Oracle's Fusion CRM Strategy. Further, Oracle has not publicly committed to keeping or using any specific Siebel application code or tools as they currently exist in program form. In fact, as each of the primary CRM products being integrated (e.g., PeopleSoft CRM, Oracle CRM, Siebel CRM) has unique data models and is written in code configurations and architecture that are different than Oracle's proposed Fusion Service Oriented Architecture, and Rimini Street believes it is highly unlikely that a final, combined Oracle Fusion CRM will contain a substantial amount of current Siebel software source code. As a result of these changes, Siebel Systems licensees who want to remain fully supported will need to execute a potentially costly migration plan to the new proposed Fusion CRM at some time in the future. Oracle has already publicly noted that a migration path is planned for Siebel Systems licensees operating the most current versions of Siebel Systems products.

Third, Oracle has publicly announced another unilateral change to its support offering called "lifetime support." Oracle's Vice President of Licensing Strategy, Jacqueline Woods, outlined the details of this "support" in a recent article published in *InformationWeek*:

In the first five years after a purchase, a company pays what amounts to 22% of the software's purchase price. In year six, the annual price goes up 10%, and for years seven and eight, it's another 20% hike. In year nine, it reverts back to the price of the first five years, but support doesn't include updates that keep an application in line with regulatory changes.

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This article makes it clear to the public that Siebel System software licensees will likely pay more over time for a lower level of service offering, where the actual deliverables available to a software license on a particular release will decline over time.

Fourth, Oracle CEO Larry Ellison—following his OracleWorld Keynote speech on or around September 21, 2005—made the following statement about Oracle's current plans to support multiple database platforms with Fusion: "We will make a decision after a long careful process...right now it's a coin toss." With no firm commitment at this time to support the multiple database platforms on which many Siebel Systems licensees operate today, it is clearly evident why Siebel Systems licensees need to be concerned about support termination.

### **III. Rimini Street May Provide Limited Updates As Part of Its Services Offering.**

Mr. Gattey states in his letter that

only Siebel Systems has the ability to make its upgrades available to customers...and it has no intent to enter into any agreement whereby Rimini Street may obtain such upgrades to pass on to its customers...Siebel Systems demands that Rimini Street cease and desist from making any statement suggesting that it has the ability to provide Siebel Systems' upgrades to its customers.

Rimini Street denies ever stating in any media or interview that Rimini Street has the ability or intention to provide Siebel Systems' upgrades to Rimini Street clients.

Rimini Street's alternative maintenance and support services will only provide Rimini Street clients with source code remediation and updates created by Rimini Street as independent consultant projects developed at the request of and on behalf of its Siebel Systems software licensee clients. Such consulting projects will be authorized under a Rimini Street, Inc. Software Maintenance and Support Agreement executed between Rimini Street and its clients.

Updates made by Rimini Street to available Siebel System software source code will be in accordance with the individual scope, nature, rights, and terms of the Siebel System license agreements executed between Siebel Systems and each Rimini Street client.

### **IV. Rimini Street Intends to Offer Alternative, Not Comparable Services.**

Mr. Gattey writes in his letter that "in its public comments and on its web site, Rimini Street has suggested that it will be offering Siebel Systems' customers maintenance and support services similar to those currently offered by Siebel, but at a lesser cost..."





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Rimini Street denies ever stating or suggesting that Rimini Street will offer “similar” services to Siebel Systems’ current offering. Rimini Street has, however, absolutely stated that it intends to offer its alternative maintenance and support services for significantly less cost than Siebel Systems’ current, widely-known pricing model.

Rimini Street has not designed or marketed its maintenance and support services as “comparable” to the support and maintenance service offerings of Siebel Systems. Rimini Street’s services are different: they are priced substantially less than Siebel Systems annual maintenance rates, and they are designed to provide fewer source code updates and a higher level of responsiveness for support issues than its clients may have experienced with Siebel Systems’ standard annual maintenance offering.

As further evidence of Rimini Street’s actual, factual statements, we quote directly from Rimini Street’s web site at *www.riministreet.com*:

Rimini Street offers Siebel Software licensees an alternative maintenance & support program that provides named support engineers, fixes for serious application issues, guaranteed case response in less than thirty (30) minutes 24x7, and 50 percent or more in fee savings compared to current Siebel annual maintenance fees....Rimini Street offers Siebel software licensees a credible choice of maintenance and support programs that provide significant savings of 50 percent or more compared to current vendor annual maintenance fees, reduce the frequency and cost of upgrades, and meet the unique business objectives of each client in the years ahead.

In media and analyst interviews, press announcements, and on its web site, Rimini Street is clearly communicating that it intends to offer Siebel Systems software licensees an alternative choice to Siebel Systems’ maintenance and support program that provides Rimini Street clients with different program deliverables, different service levels, different benefits and risks, and at a substantially different price point.

#### **V. Rimini Street Can Legally Recruit, Interview, and Hire Siebel Systems Employees.**

Mr. Gattey states in his letter that “even assuming that Rimini Street intends to provide its services by hiring employees who have previously worked at Siebel Systems, each such employee has been required to agree that they will not use Siebel Systems confidential, proprietary or trade secret information after leaving Siebel Systems’ employ...”





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Former Siebel Systems employees should honor all confidentiality, proprietary, trade secret, and non-compete agreements that may be in effect for the duration of the effective dates of each such agreement. As a condition of employment with Rimini Street, each employee candidate is required to execute an Employee Confidentiality, Trade Secret, and Non-Disclosure Agreement that clearly prohibits accepting a position with Rimini Street if they have a relevant non-compete agreement in effect. Further, the Agreement states that Rimini Street expects each new hire to fully abide by and comply with all confidentiality, proprietary, trade-secret, and non-compete agreements in the conduct and course of their employment with Rimini Street. Any breach of such agreements is grounds for disciplinary action up to and including possible termination of employment, and possible legal action for any potential damages to Rimini Street as a result of such employee's willful or grossly negligent actions.

Siebel Systems cannot prevent former employees from using their knowledge, skills, and information generally known and available in the marketplace. In fact, Siebel Systems' own training offerings for independent consultants includes "end to end" software lifecycle coverage, and such training is available to any paying attendee (whether a Siebel Systems licensee or not). These training programs are designed to provide the skills and knowledge necessary to properly install, configure, and operate Siebel Systems software products, as well as change Siebel Systems source code where source code is provided to a licensee with rights to modify and change. In short, unless precluded by specific individual agreements with each former Siebel Systems employee, former Siebel Systems employees may utilize their non-trade secret skills and knowledge relating to Siebel Systems code in the practice of their trade.

In sum, Siebel Systems' conclusion that Rimini Street and its President & CEO Seth A. Ravin have made false and/or misleading statements with respect to Siebel Systems, its pending acquisition by Oracle Corporation, or planned Rimini Street service offerings is unsupportable.

Rimini Street is concerned and disturbed by Siebel Systems' allegations in Mr. Gattey's September 26, 2005 letter. The facts set forth in this response are easily verified and, in large part, are based on Siebel Systems' own operations and public practices.

We hope that Siebel Systems' letter was not motivated by a desire to foreclose competition by Rimini Street as an independent consultant to Siebel Systems software licensees. From the tone of the letter and the allegations within it, however, it appears that Siebel Systems is attempting to (a) pressure and intimidate Rimini Street out of competition with Siebel Systems and its certified alliance partner network of service providers; (b) create special competitive barriers for Rimini Street that other independent consultants desiring to work with Siebel Systems software licensees are not required to overcome; and (c) control the vendor market from which customers using Siebel Systems software can choose a service provider.





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We hope this letter explains Rimini Street's position to Siebel Systems' satisfaction. If it does not, please timely present specific evidence to support your allegations, and Rimini Street will investigate the matter further, as appropriate.

In the meantime, Rimini Street is continuing to make immediate, significant financial investments in ramping up its operations. Accordingly, Rimini Street is entering into substantial property lease agreements, hiring professional and administrative staff, making major hardware and software investments, entering into client agreements, and preparing to launch support service operations. Rimini Street will begin providing maintenance and support services to its first Siebel Systems software licensee clients as soon as November 1, 2005.

Should Siebel Systems takes any further actions in an attempt to interfere with or disrupt Rimini Street sales or business operations—including any distribution or communication internally or externally propagating the false allegations contained in Mr. Gattey's September 26, 2005 letter, any frivolous court filings, or any formal or informal statements alleging in any way that Rimini Street does not have the rights to perform its planned service offerings—Rimini Street has authorized Snell & Wilmer and its other appointed counsel to aggressively pursue all legal means to protect Rimini Street's business and seek redress from Siebel Systems for all related costs and damages.

To the extent that any further actions taken by Siebel Systems have the effect of limiting or eliminating competitive service offerings that should otherwise be available to Siebel Systems software licensees, Rimini Street has authorized Snell & Wilmer and its other appointed counsel to immediately and aggressively pursue any and all remedies available under state and federal law, and through the assistance of applicable regulatory authorities, for Siebel Systems' anticompetitive activities and corresponding violations of the antitrust laws.

Senior Rimini Street representatives remain ready and willing to meet with Siebel Systems counterparts to discuss how best to work on a level, fair, and legal playing field that promotes healthy competition in the marketplace. Rimini Street remains hopeful that it can move forward together with Siebel Systems to forge a strong, mutually-respectful, working relationship.

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In any case, Rimini Street believes Siebel Systems software licensees have the right to expect a continuing choice of service offerings available to them from independent consultants, and Snell & Wilmer will vigilantly and aggressively work to assure that Rimini Street is not precluded by Siebel Systems in its goal to be one of those available open market choices. You may contact me at (702) 784-5201 to discuss this matter further.

Very truly yours,

SNELL & WILMER L.L.P.

A handwritten signature in black ink, appearing to read "Patrick G. Byrne".

Patrick G. Byrne

cc: Seth A. Ravin  
Wendy S. Neal, Esq.  
Jeffrey F. Barr, Esq.  
Richard Gordon, Esq.



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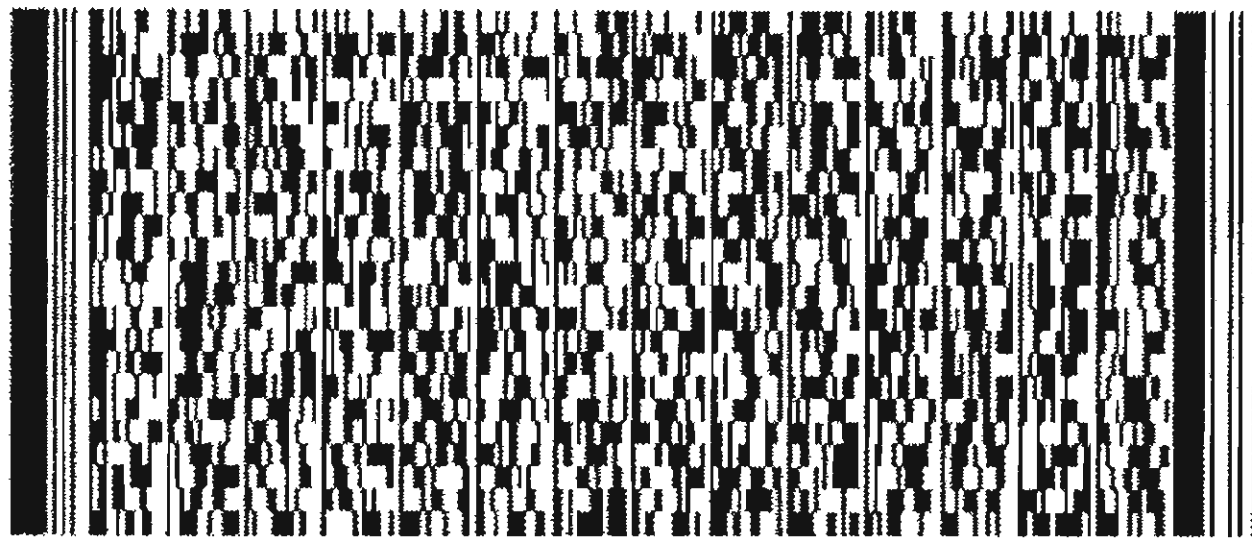
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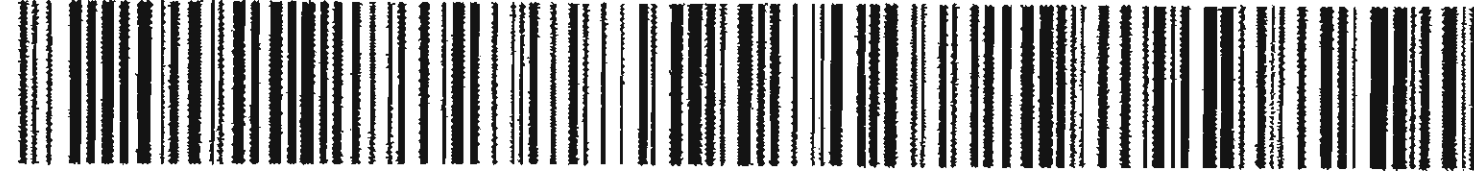
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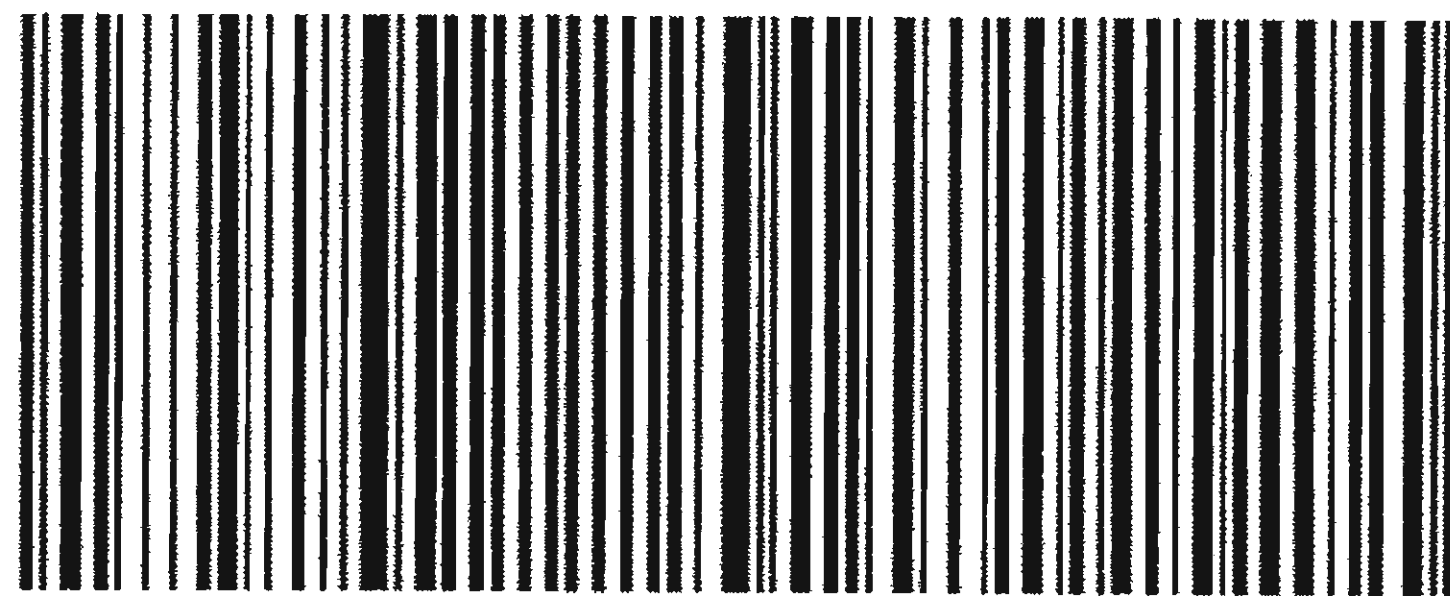
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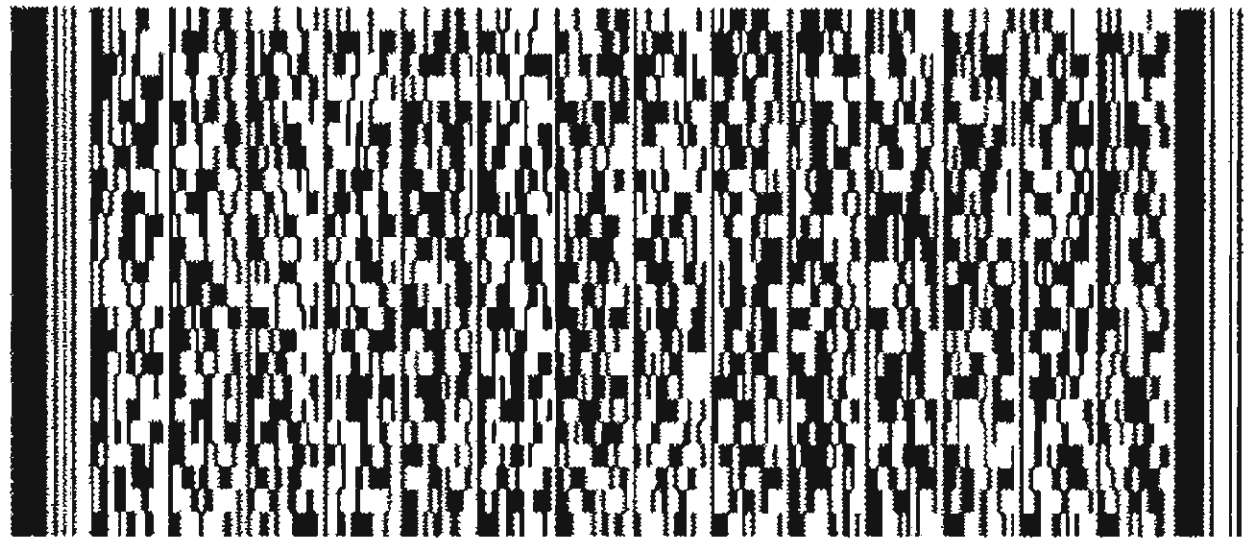
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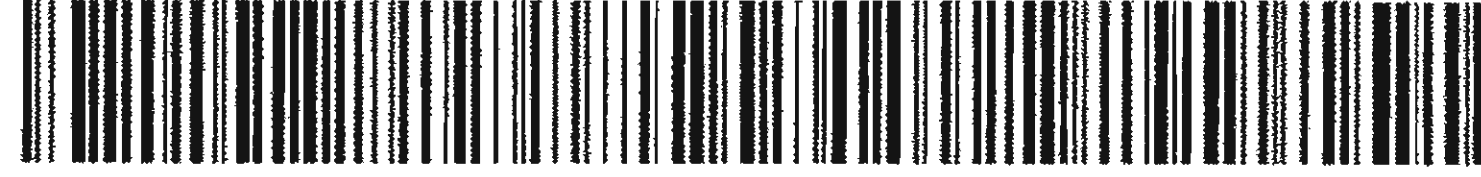
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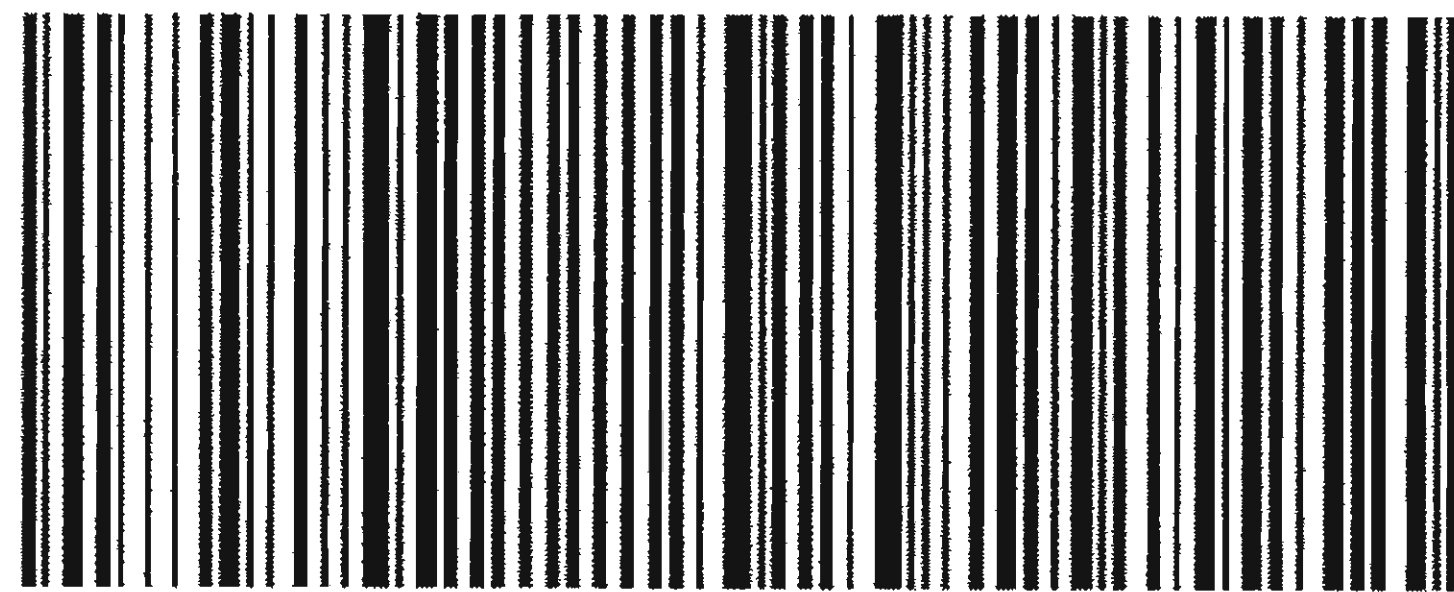
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